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REMARKS

I. Claim Status

Claims 1-11 and 14-22 were pending in this application. The Applicants have amended claims 1, 4, 5, 14, 18-19, and 21-22. Applicants have canceled claim 9, as it was drawn to a non-elected invention. Claims 14 and 15 were withdrawn previously by the Examiner to the extent that compounds listed in claims 14 were drawn to a non-elected invention as some of the compounds were oxazoles where X is O. Claim 15 does not list compounds but refers to claim 14. Applicants have amended claims 14, and 19 to delete compounds where X is O. Thus, claims 14 and 15 should not be considered withdrawn as they are drawn to the elected invention if the current amendment is entered. Applicants have canceled claim 16, 17, and 20. Claim 20 was canceled as it was drawn to a non-elected invention as all of the compounds were oxazoles. Claim 16 was canceled because X was O. If the current amendment is entered, then claims 1-8, 10-11, and 14-15, 18-19, and 21-22 would be pending.

II. Rejection Under 35 U.S.C. §112, Second Paragraph

Claims 1, 16-18 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for recitation of the terms "mercapto," "acid," "ether," and "ester." In addition claims 1, 16-18 have been rejected for improper use of "or" and "and" in what the Office Action termed improper Markush format.

Applicants have amended claims 1 and 18 to delete the recitation of the terms "mercapto," "acid," "ether," and "ester." Applicants have also amended claims 1 and 18 to address the use of "or" and "and" in the Markush format. Claims 16 and 17 have been canceled. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1 and 18 under 35 U.S.C. §112, second paragraph.

III. Rejection Under 35 U.S.C. § 102(b)

Claims 1, 4, 10, 11, and 16-18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Gellibert CA 137:169512 (which is an abstract of WO 02/062793), including the compound RN 446852-67-1 which contains a 2-bromopyridyl at R¹. Claims 1, 4, 11, and 18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Taurins CA 74:22749 (which is

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an abstract of J. Het. Chem., (1970) 7(5) 1137-1141), including the compounds RN 30235-32-6, RN 30235-33-7, and RN 30235-34-8 which each contain a pyridyl at R¹. Also, claims 1, 4, 11, and 18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Gellibert CA 137:169509 (which is an abstract of WO 02/062753), including the compounds RN 446301-78-6, RN 446301-80-0, and RN 446301-82-2 which each contain a pyridyl at R¹.

Applicants have amended claims 1, 4, 11, and 18 to delete pyridinyl as an option for R¹. Claims 16 and 17 have been canceled. Claims 14, 19, and 21 were also amended to delete compounds that contain a pyridinyl at R¹. Therefore, Applicants respectfully request that the rejection of claims 1, 4, 11, and 18 over each of Gellibert CA 137:169512, Taurins CA 74:22749; and Gellibert CA 137:169509 be withdrawn.

Claims 1, 4, 11, and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ogura et al. CA 138:338110 (which is an abstract of Heterocycles (2003) 59(1), 283-291), including RN 93366-61-1 which contains a pyridyl at R¹.

The compound RN 93366-61-1 of Ogura is an oxazole, where X is O. Claim 1 has been amended to limit X to S to conform the claim to the restriction requirement, and claim 16 has been canceled. Therefore, the compound RN 93366-61-1 of Ogura does not fall within the scope of any of claims 1, 4, and 11. Therefore, Applicants respectfully request that the rejection of claims 1, 4, and 11 over Ogura be withdrawn.

Claims 1, 4, 11, and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by Robl CA 133:296436 (which is an abstract of WO 00/059506), including RN 300656-71-7 which contains a pyridyl at R¹.

The compound RN 300656-71-7 of Robl is an oxazole, where X is O. Claim 1 has been amended to limit X to S to conform the claim to the restriction requirement, and claim 16 has been canceled. Therefore, the compound RN 300656-71-7 of Robl does not fall within the scope of any of claims 1, 4, and 11. Therefore, Applicants respectfully request that the rejection of claims 1, 4, and 11 over Robl be withdrawn.

Claims 1, 4, 11, and 18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Gellibert CA 137:169511 (which is an abstract of WO 02/062776), including RN 446297-60-5, and RN 446297-62-7. Claims 1, 5, 10, 11, and 12 were rejected previously for the addition compound of RN 446297-62-7.

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The compounds of claims 1, 4, and 11 of formula Ia only permit a 2-pyridinyl group at the 5-position of the thiazolyl core that is substituted with (R³)s. However, the compounds RN 446297-60-5, and RN 446297-62-7 of Gellibert CA 137:169511 each contain a 1,5-naphthyridin-2yl that would correspond to the 3-position of the thiazolyl core. The compound RN 446297-62-7 contains a 4-quinolinyl group that would correspond to the 3-position of the thiazolyl core. A 2-pyridinyl group is not identical to a 1,5-naphthyridin-2yl group or a 4-quinolinyl group. Accordingly, the compounds RN 446297-60-5, RN 446297-62-7, and RN 446297-62-7 of Gellibert CA 137:169511 do not anticipate claims 1, 4, and 11. Claim 18 does not recite a 1,5-naphthyridin-2yl group or a 4-quinolinyl group at R¹. Thus, the compounds RN 446297-60-5, RN 446297-62-7, and RN 446297-62-7 of Gellibert CA 137:169511 do not anticipate claim 18. Applicants respectfully request that the rejection of claims 1, 4, 11, and 18 over Gellibert CA 137:169511 be withdrawn.

IV. Objection to Claims 4-8 and 10-11

The examiner has objected to claims 2-3, and 5-10 as being dependent on a rejected base claim. Applicants believe that the base claim from which these claims depend is now in condition for allowance and respectfully request that the objection be withdrawn.

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CONCLUSION

Upon entry of the present amendments, the Applicants submit that this application is now in condition for allowance, which allowance is respectfully solicited.

If the Examiner believes that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at 734-622-2095.

Respectfully submitted,

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